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Attorneys for Plaintiff  
DEL MAR SEAFOODS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DEL MAR SEAFOODS, INC.

Plaintiff,

vs.

BARRY COHEN, CHRIS COHEN (aka  
CHRISTENE COHEN), *in personam* and  
F/V POINT LOMA, Official Number  
515298, a 1968 steel-hulled, 126-gross ton,  
70.8- foot long fishing vessel, her engines,  
tackle, furniture, apparel, etc., *in rem*, and  
Does 1-10,

Defendants.

Case No.: CV 07-02952 WHA

**PLAINTIFF'S NOTICE OF MOTION  
AND MOTION FOR SUMMARY  
JUDGMENT OR, ALTERNATIVELY,  
PARTIAL SUMMARY JUDGMENT**

Date: April 3, 2008  
Time: 8:00 a.m.  
Place: Courtroom 9, 19th Floor  
Hon. William H. Alsup

And Related Counterclaims

**TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:**

1. **NOTICE IS HEREBY GIVEN** that on April 3, 2008 at 8:00 a.m. or as soon  
thereafter as counsel may be heard by the above-entitled court, plaintiff DEL MAR

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DelMarSeafoods/2504

1 SEAFOODS, INC. ("Plaintiff") will and hereby does move the Court for summary judgment  
 2 or, alternatively, partial summary judgment on the grounds that there are no genuine issues of  
 3 material fact and that the moving party is entitled to judgment as a matter of law on the  
 4 plaintiff's Breach of the Promissory Note and Foreclosure of the Preferred Ship Mortgage  
 5 causes of action. The Plaintiff's motion is based on the grounds that the defendants failed to  
 6 make the required payments on the Promissory Note, failed to maintain the vessel, and failed  
 7 to properly insure it.

8 The Plaintiff will and hereby does also move the Court for partial summary judgment  
 9 dismissing the defendants' cause of action for wrongful arrest based upon their failure to  
 10 raise any genuine issue of material fact that Plaintiff acted with bad faith, malice, or gross  
 11 negligence in arresting defendants vessel.

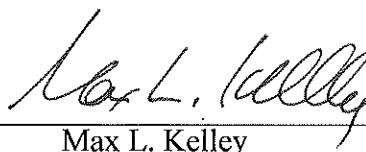
12 The Plaintiff also will and hereby does move the Court for an order of partial  
 13 summary judgment precluding the defendants' causes of action for intentional and/or  
 14 negligent interference with prospective economic advantage, and for breach of the implied  
 15 covenant of good faith and fair dealing based on the lack of any genuine issues of material  
 16 fact supporting defendants' causes of action.

17 The Plaintiff will also, and hereby does, move this Court for partial summary  
 18 judgment on defendants' claim for damages resulting from the alleged wrongful arrest for the  
 19 value of a lost fishing net.

20 This motion is based upon this Notice of Motion and Motion, the accompanying  
 21 Memorandum of Points and Authorities, the declarations of Max L. Kelley and Joe Roggio,  
 22 Plaintiff's Request for Judicial Notice, all pleadings and papers on file in this action, and  
 23 upon such other matters as may be presented to the Court at the time of the hearing.

24 Dated: February 28, 2008

25 COX, WOOTTON, GRIFFIN,  
 26 HANSEN & POULOS, LLP  
 Attorneys for Plaintiff  
 DEL MAR SEAFOODS, INC.

27 By:   
 28 Max L. Kelley

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